

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EVA JEANETTE BENTLEY,

Plaintiff,

v.

MICHAEL J. ASTRUE, *Commissioner
of the Social Security Administration,*

Defendant.

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Civil Action No. **3:10-CV-00032-L**

ORDER

Before the court are the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, filed June 15, 2011. No objections were filed.


The magistrate judge recommends that the court grant Plaintiff's Application for Attorney's Fees under the Equal Access to Justice Act, filed March 27, 2011. Having reviewed the motion, response, reply, and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions are incorrect. The court **accepts** the magistrate judge's recommendation to grant Plaintiff's Application for Attorney's Fees; however, the court will increase the amount of the award because of work performed by Plaintiff in responding to an objection made by Defendant.

The magistrate judge's recommendation differs from the amount listed in Plaintiff's Response to the Commissioner's Objection to Reasonable Hours under the Equal Access to Justice Act. In her response, Plaintiff requests an additional award of \$351.57 for 125 minutes spent preparing a response to the Commissioner's objection. Pl.'s Resp. 10. The court finds that Plaintiff's request is reasonable and **grants** Plaintiff's request for additional attorney's fees incurred in

preparing a response to the Commissioner's objections.* The award also reflects Plaintiff's request for a reduction in the award for paralegal fees to "7 hours and 10 minutes at \$95 per hour." Pl.'s Resp. 8; *see also* Pl.'s Resp. 10.

For the reasons stated herein, the court **grants** Plaintiff's Application for Attorney's Fees under the Equal Access to Justice Act. Accordingly, the court hereby **awards** Plaintiff a total amount of \$10,762.77, which is based on 59 hours and 35 minutes of attorney time at \$168.75 per hour; 7 hours and 10 minutes of paralegal time at \$95 per hour; and \$27.25 for costs.

It is so ordered this 20th day of July, 2011.


Sam A. Lindsay
United States District Judge

**See Commissioner, I.N.S. v. Jean*, 496 U.S. 154, 166 (1990) ("Congress intended the EAJA to cover the cost of all phases of successful civil litigation addressed by the statute."); *Powell v. Commissioner of Internal Revenue Service*, 891 F.2d 1167, 1172 (5th Cir. 1990) (citations omitted) ("[W]here the government's underlying position is not substantially justified, plaintiff is entitled under the EAJA to recover all attorney's fees and expenses reasonably incurred in connection with the vindication of his rights, including those related to any litigation over fees, and any appeal.").